

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 205**

This is an advisory opinion in response to a letter requesting advice from the Ethics Commission [Commission] as to whether a retired employee's [Mr. A] employment by a not-for-profit corporation whose operational expenses are paid by the City [XYZ, Inc.], violates the City's post-employment restrictions.

The Commission understands the facts relative to the inquiry to be as follows:

Mr. A retired from City employment on (date), after X years of service, at the age of XX. At the time of his retirement he was employed by the Department of Transportation Services. He has begun employment on a temporary basis with XYZ, Inc. He would like to enter into a permanent employment relationship with XYZ, Inc., because he believes he would be able to constructively apply the knowledge gained during his past 20 years with the City.

The ethical question presented is whether his employment by XYZ, Inc., is in violation of the City's post-employment restrictions.

The general rule in relation to his question is found in Section 11-105 of the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], which states:

No person who has served as an elected or appointed officer or employee of the city shall, within a period of one year after termination of such service or employment, appear for compensation before any agency of the city, or receive compensation for any services rendered in behalf of any private interests in relation to any case, proceeding or application with respect to which such person was directly concerned, or which was under such person's active consideration, or with respect to which knowledge or information was made available to such person during the period of said service or employment.

XYZ, Inc., a not-for-profit corporation, is a private interest, despite its close relationship with City government. XYZ, Inc., would be compensating Mr. A for rendering service in relation to the side of their operation which is similar to the branch of the City department for which he previously worked. The Commission has previously decided that the phrase "case, proceeding or application" in Section 11-105, RCH, should be construed broadly to mean subject matter. Mr. A testified to the Commission that his work for the City included work similar to

that which he would be doing for XYZ, Inc. Therefore, his proposed permanent employment with XYZ, Inc., clearly violates the City's restrictions on future employment.

Based on the evidence presented, the Commission finds that Mr. A's employment by XYZ, Inc., prior to (date) is in violation of the City's Standards of Conduct. He may, however, volunteer his time to XYZ, Inc., because there is no restriction upon the uncompensated activity of a former City employee.

There is one other alternative that he may wish to explore. Section 6-1.3(e) of the Revised Ordinances of Honolulu 1978 (1983 Ed.) provides that no City agency is prohibited "from contracting with a former...employee to act on a matter on behalf of the City within the period of limitation...." If the Department of Transportation Services were able to contract with him to do this work with XYZ, Inc., prior to (date), there would be no violation of the standards of conduct.

Dated: September 7, 1990

JANE B. FELLMETH  
Chair, Ethics Commission